

Repealed 5/12/2015

31A-37-602 Requirements of a captive reinsurance company.

- (1)
 - (a) If permitted by its articles of incorporation or charter, a captive reinsurance company may apply to the commissioner for a certificate of authority to write reinsurance covering:
 - (i) property and casualty insurance; or
 - (ii) reinsurance contracts.
 - (b) A captive reinsurance company authorized by the commissioner may write reinsurance contracts covering risks in any state.
- (2) To conduct business in this state, a captive reinsurance company shall:
 - (a) obtain from the commissioner a certificate of authority authorizing the captive reinsurance company to conduct business as a captive reinsurance company in this state;
 - (b) hold at least one board of directors' meeting each year in this state;
 - (c) maintain its principal place of business in this state; and
 - (d) appoint a registered agent to accept service of process and act otherwise on its behalf in this state.
- (3) Before receiving a certificate of authority, a captive reinsurance company shall file with the commissioner:
 - (a) a certified copy of the captive reinsurance company's:
 - (i)
 - (A) articles of incorporation; or
 - (B) charter; and
 - (ii) bylaws;
 - (b) a statement under oath of its president and secretary showing its financial condition; and
 - (c) other documents required by the commissioner.
- (4) In addition to the information required by Subsection (3), the applicant captive reinsurance company shall file with the commissioner evidence of:
 - (a) the amount and liquidity of the captive reinsurance company's assets relative to the risks to be assumed;
 - (b) the adequacy of the expertise, experience, and character of the person who manages the captive reinsurance company;
 - (c) the overall soundness of the captive reinsurance company's plan of operation; and
 - (d) other overall factors considered relevant by the commissioner in ascertaining if the proposed captive reinsurance company is able to meet its policy obligations.
- (5)
 - (a) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, information submitted pursuant to this section is confidential and may not be made public by the commissioner or an agent or employee of the commissioner without the written consent of the company, except that:
 - (i) information may be discoverable by a party in a civil action or contested case to which the submitting captive reinsurance company is a party, upon a showing by the party seeking to discover the information that:
 - (A) the information sought is relevant to and necessary for the furtherance of the action or case;
 - (B) the information sought is unavailable from other nonconfidential sources; and
 - (C) a subpoena issued by a judicial or administrative law officer of competent jurisdiction has been submitted to the commissioner; and

- (ii) the commissioner may disclose the information to the public officer having jurisdiction over the regulation of insurance in another state if:
 - (A) the public official agrees in writing to maintain the confidentiality of the information; and
 - (B) the laws of the state in which the public official serves require the information to be confidential.
- (b) This Subsection (5) does not apply to an industrial insured captive reinsurance company insuring the risks of an industrial insured group.